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SEP 9 2004

In re Application of
Jigish D. Trivedi
Application No. 09/915,658
Filed: August 21, 1997
Attorney Docket No. MIO024PA

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.181, filed May 28, 2003, to withdraw the holding of abandonment of the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to respond to the non-final Office action within the shortened statutory period of three months from the mailing date of October 22, 2003.

Petitioner states that the non-final Office action was never received by applicant's representative and attests to the fact that a search of the file jacket and docket records indicates that the non-final Office action was not received. The petition is accompanied by a copy of the docket record for the application dated from February 12, 1998 through May 6, 2004.

A review of the written record indicates that the non-final Office action was returned by the United States Postal Service as undeliverable mail. Further, a review of the correspondence address of record and the correspondence address listed within the amendment filed on September 19, 2003, shows that the addresses are different. The correspondence address of record contains "Suite 500" and not "Suite 1300" as listed in the amendment. Moreover, the record does not show that the returned Office action was remailed.

MPEP § 707.13 states the Office policy with regards to returned Office actions. Office actions are sometimes returned to the Office because the United States Postal Service has not been able to deliver them. The examiner should use every reasonable means to ascertain the correct address and forward the action again, after stamping it "remailed" with the date thereof and redirecting it if there is any reason to believe that the action would reach applicant at such new address. If the Office action was addressed to an attorney, a letter may be written to the inventor or assignee

informing him or her of the returned action. The period running against the application begins with the date of remailing. *Ex parte Gourtoff*, 1924 C.D. 153, 329 O.G. 536 (Comm'r Pat. 1924).

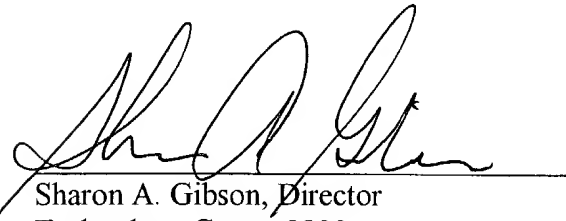
The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn. The failure of the examiner to ascertain the correct correspondence address and to remail the Office action was insufficient to hold the application abandoned.

Petitioner is reminded of the policy for a change of correspondence address. MPEP § 601.03 states: Where an attorney or agent of record (or applicant, if he or she is prosecuting the application pro se) changes his or her correspondence address, he or she is responsible for promptly notifying the U.S. Patent and Trademark Office of the new correspondence address (including ZIP Code). The notification should also include his or her telephone number.

The application file does not indicate that a change of address has been filed in this case. The address of the petitioner is determined to be the correct correspondence address to which the Office action will be remailed. Any future correspondence will also be remailed to the petitioner's address.

The application file is being forwarded to the Technology Center 2800 support staff for remailing the Office action. The shorten statutory period for response set therein will be reset to run from the date the Office action is remailed. Extensions of time are available under 37 CFR § 1.136.

Questions regarding this decision should be directed to Jose' G. Dees at (571) 272-1569.

A handwritten signature in black ink, appearing to read 'Sharon A. Gibson', is written over a horizontal line.

Sharon A. Gibson, Director
Technology Center 2800
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